

House Bill 966

By: Representatives Day of the 163rd, Neal of the 1st, Horne of the 71st, and Smith of the 70th

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to a license to carry a pistol or revolver and temporary renewal permits, so as to require a license or renewal license to be issued more quickly under certain circumstances; to provide legislative findings; to provide for a cause of action and civil remedies where a license or renewal license is not timely issued; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

The General Assembly finds that the right of the people to bear arms as guaranteed by the Second Amendment to the United States Constitution and Article I, Section I, Paragraph VIII of the Georgia Constitution is crucial to protecting individual freedom and safeguarding the many liberties which are the cornerstones of this great nation. In preserving this right, it is essential that licenses to carry weapons be timely issued to law abiding citizens who are seeking to exercise their constitutional right in accordance with the laws of this state. It is the intent of this legislation to prevent unnecessary delays and hardships placed by local governments which infringe upon the exercise of the people's right to bear arms. It is further the finding of this body that lawful United States citizens are entitled to obtain a license to carry a pistol or revolver in a timely manner.

SECTION 2.

Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to a license to carry a pistol or revolver and temporary renewal permits, is amended by revising subsection (d) as follows:

"(d) Investigation of applicant; issuance of license; renewal.

(1) For both license applications and requests for license renewals, the judge of the probate court shall, within two business days following the receipt of the application or

1 request, direct the law enforcement agency to request a fingerprint based criminal history
2 records check from the Georgia Crime Information Center and Federal Bureau of
3 Investigation for purposes of determining the suitability of the applicant and return an
4 appropriate report to the judge of the probate court. Fingerprints shall be in such form
5 and of such quality as prescribed by the Georgia Crime Information Center and under
6 standards adopted by the Federal Bureau of Investigation. The Georgia Bureau of
7 Investigation may charge such fee as is necessary to cover the cost of the records search.

8 (2) For both license applications and requests for license renewals, the judge of the
9 probate court shall, within two business days following the receipt of the application or
10 request, also direct the law enforcement agency to conduct a background check using the
11 Federal Bureau of Investigation's National Instant Criminal Background Check System
12 and return an appropriate report to the probate judge within 30 days.

13 (3) When a person who is not a United States citizen applies for a license or renewal of
14 a license under this Code section, the judge of the probate court shall direct the law
15 enforcement agency to conduct a search of the records maintained by the United States
16 Bureau of Immigration and Customs Enforcement. As a condition to the issuance of a
17 license or the renewal of a license, an applicant who is in nonimmigrant status shall
18 provide proof of his or her qualifications for an exception to the federal firearm
19 prohibition pursuant to 18 U.S.C. Section 922(y).

20 (4) The law enforcement agency shall ~~notify~~ report to the judge of the probate court
21 within ~~50~~ 30 days, by telephone and in writing, of any findings relating to the applicant
22 which may bear on his or her eligibility for a license or renewal license under the terms
23 of this Code section. When no derogatory information is found on the applicant bearing
24 on his or her eligibility to obtain a license or renewal license, a report shall not be
25 required. When the law enforcement agency fails to report to the probate judge within
26 30 days as required by this Code section, there shall be a rebuttable presumption that no
27 derogatory information is found. The law enforcement agency shall return the
28 application and the blank license form with the fingerprint thereon directly to the judge
29 of the probate court within such time period. Not later than ~~60~~ 45 days after the date of
30 the application the judge of the probate court shall issue the applicant a license or renewal
31 license to carry any pistol or revolver ~~if no~~ unless facts establishing ineligibility have
32 been reported ~~and if~~ or unless the judge determines the applicant has not met all the
33 qualifications, is not of good moral character, ~~and or~~ has ~~complied~~ failed to comply with
34 ~~all~~ any of the requirements contained in this Code section."

35 SECTION 3.

36 Said Code section is further amended by adding a new subsection (j) to read as follows:

“(j) When an eligible applicant who is a United States citizen fails to receive a license, temporary permit, or renewal license within the time period required by this Code section and the application or request has been properly filed, the applicant may bring an action in mandamus or other legal proceeding in order to obtain a license, temporary license, or renewal license and such applicant shall be entitled to recover his or her costs in such action, including reasonable attorney’s fees.”

SECTION 4.

This Act shall become effective on July 1, 2008.

SECTION 5.

All laws and parts of laws in conflict with this Act are repealed.